

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X **Docket#**  
UNITED STATES OF AMERICA, : 23-cr-00443-FB  
: :  
: :  
- versus - : U.S. Courthouse  
: Brooklyn, New York  
JOSEPH LANNI, et al., :  
: November 30, 2023  
Defendants : 2:20 p.m.  
-----X

TRANSCRIPT OF CRIMINAL CAUSE FOR BAIL APPLICATION  
BEFORE THE HONORABLE CHERYL L. POLLAK  
UNITED STATES MAGISTRATE JUDGE

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1           THE CLERK: So we have a criminal cause for a  
2 bail application. It is 23-cr-443, *United States v.*  
3 *Joseph Lanni*.

4           Counsel, state your appearances, please,  
5 starting with the government.

6           MR. GALEOTTI: Good afternoon, your Honor. For  
7 the government, Assistant United States Attorneys Matthew  
8 Galeotti and Andrew Roddin.

9           THE COURT: Good afternoon.

10          MR. SOSINSKY: Appearing for Joseph Lanni, Fred  
11 Sosinsky. Good to see you, Judge.

12          MR. BACHRACH: Good afternoon, your Honor.  
13 Also appearing for Joseph Lanni, Michael Bachrach.

14          THE COURT: All right. Good afternoon. So I  
15 think we're here for a bail application or is that --  
16 they've been arraigned and --

17          THE CLERK: Yes.

18          MR. SOSINSKY: That's correct, your Honor.

19          THE COURT: Okay. So I guess then it's your  
20 application.

21          MR. SOSINSKY: It is --

22          THE COURT: Oh, first let me just make sure.

23          Mr. Lanni, I take it that you do understand  
24 English, correct?

25          DEFENDANT LANNI: Yes. Yes, your Honor.

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1 THE COURT: Okay. If at any point something is  
2 said that you don't understand, please let me know right  
3 away.

4 MR. LANNI: All right. Thank you.

5 THE COURT: All right. Go ahead, Counsel.

6 MR. SOSINSKY: And I can remain seated, Judge?

7 THE COURT: Yes, you can.

8 MR. SOSINSKY: Okay. Thank you. Your Honor,  
9 as of last week, there have been six of Mr. Lanni's  
10 co-defendants for whom the government has sought  
11 detention at contested hearings, and all six have been  
12 granted release on varying types of bonds, some of them  
13 more significant in terms of their amount and the level  
14 of restriction. But the government has failed in each  
15 case to satisfy, at the time, a magistrate judge, and  
16 then Judge Block last week at a hearing that I attended.  
17 And I attached to our application the transcript from  
18 Judge Block's appeal of the magistrate -- then magistrate  
19 judge's, I should say, decision, Judge Reyes, with regard  
20 to the government's applications.

21 So -- and Judge Block, interestingly, began  
22 last week's proceedings against Defendants Tantillo and  
23 Gradilone by asking the government, I think, a very  
24 telling question. And that is, he said, "I've read  
25 through most of the stuff here. What separates these two

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1 gentlemen at defense counsel table from the ones who were  
2 granted release already?"

3           And as I hope your Honor has seen while reading  
4 through the transcript, although at least one of them  
5 last week was charged substantively with a series of  
6 violent extortions, including all sorts of beatings with  
7 hammers and fists and continuing threats that the  
8 government claimed continued until recently, the judge  
9 saw no distinction under the law in terms of whether or  
10 not, given the presumption of bail that existed in those  
11 cases, and indeed exists here, and I think even more  
12 strongly, to detain them, especially given the packages  
13 that were being proposed and that the logistics of which  
14 were worked out that same afternoon, they were released  
15 the following morning when some of the suretors came in,  
16 and others were given time to sign and to file liens  
17 against property and so on.

18           If anything, if anything, your Honor, the  
19 situation we have here with regard to my client, Joe  
20 Lanni, cries out even more strongly for release on a  
21 restrictive bond similar to that which Judge Block  
22 imposed last week, and similar to that which Judge Block  
23 imposed on another case with similar allegations, *United*  
24 *States v. Campos*, that Judge Block actually referenced  
25 both in the discussion, and I believe in his order, and

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1 asked both sides really to fashion the conditions of  
2 release that would be imposed in magistrate's court  
3 following his order on his decision in *Campos*.

4 And that's what we've proposed here, Judge, the  
5 same type of restrictive conditions, the same type of  
6 restrictive conditions that Judge Block well knows  
7 from -- God bless you -- from his years of experience,  
8 okay, would essentially, essentially eliminate, if not  
9 all, almost all of the concerns -- of the concerns that  
10 the government presses on in that case and in this case.

11 So Judge Block, noting through experience that  
12 if pretrial services was given access to phones; if the  
13 person can't leave their house without permission; if the  
14 person can't have visitors that are on a list of people,  
15 bad people that the government says they shouldn't be in  
16 contact with; if the person's only allowed to visit their  
17 attorneys and their doctor's offices, unless there's  
18 extraordinary circumstance and the Court grants  
19 permission otherwise; if, as I said, if there's  
20 monitoring, if they're being electronically monitored;  
21 and if they are offering properties, collateral from  
22 family members, from others, that would cause tremendous  
23 pain and sacrifice, if not homelessness, upon those who  
24 are willing to put up their properties and sign off on  
25 the bond and have the government come after them if there

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1 was any amount owed after they foreclosed on properties  
2 pledged, all of those are reasons why historically, as  
3 Judge Block noted, and in those cases, he was well  
4 satisfied that almost all of those concerns could be  
5 sufficiently mitigated or ameliorated by the imposition  
6 of those type of conditions, and he talked a lot about  
7 that.

8 My client is 52 years old. Until -- Judge,  
9 until September of this year, he'd never been accused --  
10 forget about convicted; he's not been -- but he's never  
11 been accused of a violent act in his life. And in a case  
12 like this, I dare say that's remarkable.

13 Most of the people who come before this Court  
14 and come before Judge Block, in cases where the  
15 government claims that they are who they are, cannot say  
16 that. He can. I've represented him on at least one of  
17 his cases in the past that had nothing to do with  
18 violence, threats, and so on.

19 His family is here, Judge, his children, all of  
20 whom were raised and schooled and continue to be here in  
21 the city of New York. He's made his home in Brooklyn  
22 and/or Staten Island. He's worked his entire life in  
23 Brooklyn and Staten Island here in the Eastern District.

24 He's never been accused, convicted of utilizing  
25 guns, firearms. He's never been convicted.

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1 THE COURT: Let me just respectfully --

2 MR. SOSINSKY: Yeah.

3 THE COURT: -- stop you for a second before we  
4 get too far along here. I have a pretrial services  
5 report. Maybe I have the wrong one.

6 MR. SOSINSKY: I'm sure you have the right one.

7 THE COURT: But it says on page 5 that as of  
8 September 28th of this year in Ocean County, New Jersey,  
9 he was charged, among other things, simple assault,  
10 terroristic threats, (indiscernible), possession of a  
11 weapon.

12 MR. GALEOTTI: Yes.

13 THE COURT: And so I realize it looks as though  
14 those charges appear to be pending --

15 MR. GALEOTTI: They are. I'm representing him.

16 THE COURT: But to suggest that there's no  
17 history at all of allegations of violence --

18 MR. GALEOTTI: I didn't say that. What I said  
19 is until September of this year -- I did. I was very  
20 careful to say that for that reason, Judge. I know that  
21 because I'm representing him in connection with that  
22 case.

23 My point was, my point was -- and that case has  
24 nothing to do with the case the government is bringing  
25 here.

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1 THE COURT: No. It doesn't have to. I was  
2 just --

3 MR. SOSINSKY: Yes.

4 THE COURT: I guess I didn't catch the "until  
5 September," so --

6 MR. SOSINSKY: Well, I did --

7 THE COURT: That's all right.

8 MR. SOSINSKY: I did, and I said, you know, 52  
9 years.

10 THE COURT: I'm sure you did. I didn't catch  
11 it. I was focused on trying to find where I thought I  
12 had seen something relating to a gun.

13 MR. GALEOTTI: That's his PSR. There's no  
14 doubt about it, and those are the charges pending.

15 By the way, Judge, to the extent it's important  
16 to you, he was released on essentially no conditions in  
17 that case down there. He was compliant with those  
18 conditions, and of course -- and he was arrested here at  
19 the beginning of November.

20 We've been in touch with the equivalent of  
21 probation or pre-trial down there. And if he's released  
22 on bond, as we're requesting, they are requesting simply  
23 the same thing, a heightened level of contact with him.

24 To the extent that that's important for the  
25 Court to know, that's their current position, given their



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1 understanding that he was arrested on this case. And as  
2 you can see, as you can see substantively in the  
3 government's memorandum, that's the most recent act or  
4 accusation against him since he's not named in any other  
5 count in the indictment. He's not named in any so-called  
6 predicate act. He's not named in substantive crimes in  
7 the indictment.

8           So yes, that exists, Judge. That's the first  
9 time, as I said, in 52 years that there's ever been such  
10 an accusation brought against him. And he intends to  
11 fight those charges along with counsel.

12           The cases that he's had, Judge, if anything,  
13 and I hope your Honor went through our memorandum,  
14 outlined the fact that when he's had court cases,  
15 non-violent accusations against him, he's come back to  
16 court each and every time. He has hired counsel. He has  
17 met with counsel in their offices. I know the case that  
18 I represented him on some years back, there was probably  
19 a dozen appearances in court.

20           I don't know how anyone can prove to a court  
21 that they will return to court -- and this is if we get  
22 into a discussion of whether there's a real risk of  
23 flight, which I want to address in a moment -- other than  
24 by, sure, it's better never to have been arrested. I'd  
25 much rather stand before a court and say that that's the

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1 best indication. But when someone has had court cases,  
2 and they've attended to them, and they've been on  
3 probation and supervised release following release from  
4 facilities, and there's no violations, and they've  
5 fulfilled their obligations there, that's a pretty good  
6 indication, isn't it, that the Court should not be  
7 concerned about whether or not they will return to court.

8 Which gets me to the next point, Judge. And  
9 that is, under the law, we really shouldn't be -- I  
10 shouldn't be talking about, and maybe I'm presuming too  
11 much, fighting off the notion of detention in this case,  
12 as opposed to conditions of release. And why is that?  
13 Because, as we've argued at length, at length, in our  
14 submission to the Court, in order for the government to  
15 request detention in the first place, there has to be a  
16 legal basis outlined in the statute, right, to be seeking  
17 detention. Is there a crime of violence in this case?

18 The government says yes, but they ignore a  
19 whole body of law that's developed since the time of the  
20 one case that they point to in the Second Circuit, what,  
21 20, 21 years ago, I believe, that has changed  
22 dramatically the definition of a crime of violence. They  
23 ignore that.

24 They say that this *Watkins* case somehow doesn't  
25 stand for the proposition that you have to follow Supreme

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1 Court precedent and use a categorical approach in  
2 analyzing whether or not a crime is a crime of violence  
3 under the law. It doesn't say that at all. It says  
4 exactly what I just said. It says exactly what I just  
5 said.

6 So, to the extent that the Court is considering  
7 to apply -- whether a RICO conspiracy is a crime of  
8 violence, an issue that the Second Circuit has spoken  
9 on -- I don't know how many times, but in papers, in  
10 papers, the Court reminds the parties that in unpublished  
11 decisions, it had been rendering decisions for years  
12 saying that a RICO conspiracy was no longer a crime of  
13 violence after the Supreme Court in *Davis* and cases that  
14 came before it, *Johnson*, had ruled that way.

15 So, whether you use the strict categorical  
16 approach or you use the approach I think that the  
17 government urges of looking at a crime of violence under  
18 the residual clause which may still be alive and looks at  
19 it as the ordinary RICO conspiracy case, in papers, the  
20 Second Circuit made clear, made clear, that a RICO  
21 conspiracy is no longer a crime of violence.

22 And if a RICO conspiracy, like they said, like  
23 a conspiracy to commit murder -- murder, the worst of all  
24 crimes, the most serious of all crimes, Hobbs Act robbery  
25 conspiracies are no longer crimes of violence, it cannot

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1 possibly be that the government is relying on a RICO  
2 conspiracy to seek the detention of my client. The law  
3 doesn't support that.

4           So there's two other grounds upon which they  
5 can move. The burden is on them for detention here. A  
6 significant, a serious risk of flight. And I just  
7 outlined, I think, for the Court why there shouldn't be  
8 an unserious thought about him taking off anywhere,  
9 Judge. It has to be a serious risk of flight presented  
10 by the government in order to utilize that second  
11 potential hook for a detention hearing, not to get  
12 detention, but to even get to the point where they can  
13 argue for detention.

14           Judge Block last week, in listening to the  
15 government's proffers in that regard, made very clear --  
16 we cite Judge Block's analysis of the situation,  
17 something he has expressed before, there's no risk of  
18 flight in these cases. That's not what we're talking  
19 about. And mind you, at least one of the individuals  
20 before Judge Block last week, one of his co-defendants,  
21 was unquestionably charged with a crime of violence,  
22 extortion, violent extortion, which he's not. So that's  
23 why we're talking about it to begin with.

24           But Judge Block made very clear, in these cases  
25 where people, you know, have track records of appearing

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1 in court and have not taken off -- forget about the  
2 historical statistics we offered up showing that  
3 99 percent of people in federal court return, and 98  
4 don't violate the conditions. But Judge Block well knows  
5 that wasn't the issue. And the government pressed on for  
6 a bit. And he told them, listen, that's not the issue  
7 here. Flight is not the issue.

8           So if flight is not the issue, and I hope your  
9 Honor agrees that flight is not the issue, and it's  
10 certainly not a significant issue here, that leaves one  
11 other hook for the government, and they don't have that  
12 either, as we've outlined in our papers.

13           In order to get to a detention hearing, as  
14 opposed to talking about whether or not the conditions  
15 that are being offered, a combination of conditions,  
16 sufficiently can protect against concerns of flight,  
17 concerns of dangerousness, and obstruction, they have to  
18 make a showing before you that he poses a real risk of  
19 obstruction of justice, of threatening witnesses, of  
20 threatening victims. And they've made no such showing.

21           The only thing that they can point to -- I  
22 guess there are two things. One we include in a  
23 footnote, which was while he was out at a restaurant  
24 having dinner with some people, two other people who he  
25 was with got up and confronted someone else and did

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1 something. There's no mention made of him knowing in  
2 advance, participating, directing, requesting, laughing.

3 They have no idea, they make no showing to you  
4 about his involvement, and yet I guarantee you're about  
5 to hear about it as one basis upon which the Court should  
6 consider that as obstructive conduct. He's not charged  
7 with it, as are others. They have no evidence that he  
8 was involved, other than wild speculation that that  
9 couldn't happen unless, you know, he said it was okay.

10 The second thing is the New Jersey matter,  
11 which, Judge, I did -- maybe I didn't speak loud enough,  
12 but I did make mention of, as of September, the first  
13 time Joe Lanni, at age 52, married with children, has  
14 ever been accused of an act of violence in his life. And  
15 as I say, I represent him on that case. He's fighting  
16 that case.

17 But, Judge, if you go through that, there was  
18 him and another person drinking inside of an  
19 establishment in a bar down there for hours on end. They  
20 had drinks. They had purchased other patrons of the bar  
21 drinks. They were having a perfectly pleasant time.

22 And then at some point, regardless of who was  
23 at fault, there's an argument that ensues, and the owners  
24 decide that he and his friend are the ones who are going  
25 to have to leave.

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1 Both of them felt it was terribly unfair for  
2 that to happen. They didn't do anything. They were  
3 spending money there. They're not -- no one claimed that  
4 anything got physical at that point. And so, however it  
5 happened, the owners decide, you have to leave.

6 And he becomes upset, as does the guy he was  
7 with at the time. And then, so the police are called,  
8 and the police are there, and they take both of their  
9 IDs. This car's sitting in the parking lot where he'd  
10 been since that afternoon. And the police notice that  
11 there's alcohol on the breath. You shouldn't be driving.  
12 They -- leave your car here. Leave your car here, you'll  
13 come back and get it. You'll get a ride, an Uber, come  
14 back tomorrow and pick it up.

15 And he's complaining, he's -- there's yelling  
16 back and forth about why us? How dare you? We were  
17 here, we weren't -- and the claim is that the other guy  
18 damaged, I don't know, a painting or something off of the  
19 wall.

20 If true, none of this is a great way to spend a  
21 Friday afternoon on Labor Day weekend, Judge. It has  
22 nothing to do with this case. Okay? And it certainly,  
23 certainly should not be a basis for this Court to not  
24 agree with the defense that there are conditions, very  
25 reasonable and restrictive conditions, okay, that should

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1 put the Court at ease that he will not violate a release  
2 order on an appearance bond here. Has nothing to do with  
3 this case other than it's the same person and accusations  
4 are flying.

5 The government doesn't accuse him of assaulting  
6 them later. And even if they did, that's not -- that is  
7 not a significant risk of obstruction. That's not  
8 obstruction of a case. There's no evidence that after  
9 the police were involved that there were threats made to  
10 these people not to cooperate, not to continue to speak  
11 to the police.

12 The police were there when they claimed he ran  
13 across the street and was seen on a video with a gasoline  
14 can in his hand. The police are at the place -- the  
15 police are at the place when they say he's calling up  
16 afterwards, demanding an apology from them for kicking  
17 him or them out instead of the other people.

18 The police were there. They say there was a  
19 police wearing body cam who takes the phone away from one  
20 of the patrons and tries to announce, listen, I'm a  
21 police officer, I'm still here. That's not obstruction.  
22 They have no evidence of any such thing or threatening  
23 someone who's expected to testify.

24 That's what the statute gets at. We offered up  
25 at least one case, perhaps cases, where courts have found



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1 obstruction to exist as it relates to the bail statute, a  
2 far cry from what we have here, Judge.

3 So, in order for this Court to even consider  
4 detention as opposed to strict conditions, the government  
5 has to satisfy you by clearly convincing evidence that  
6 one of those hooks exists. I believe it's a fair  
7 preponderance of the evidence that --

8 THE COURT: Why don't you give me what you're  
9 proposing as a bail package.

10 MR. SOSINSKY: Yeah. Okay, Judge.

11 THE COURT: We have a very crowded afternoon  
12 and --

13 MR. SOSINSKY: Okay.

14 THE COURT: -- I appreciate -- that's what the  
15 argument is seeking so far, and I want to hear what your  
16 bail package says.

17 MR. SOSINSKY: Okay. So, Judge, as we've  
18 outlined in our submission, the bail package is two homes  
19 that collectively are worth and appraised at north of  
20 \$3 million, okay? Probably 3.1, 3.2 million dollars.  
21 One of whom -- one of the homes, I should say, has been  
22 in the family for a long time. It is the home where his  
23 eighty -- I think five -- year-old mother, who's here in  
24 court, lives, and his brother Louis live. Louis is the  
25 owner, mom lives in that home.

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1           That home in Brooklyn is -- it is assessed by  
2 the City -- I'm sure your Honor knows you don't get  
3 assessed at the real value, it's always under. But it's  
4 assessed literally within dollars of \$2 million itself.  
5 And another home in New Jersey, which we've had appraised  
6 and is worth close to \$2 million, okay? So those are the  
7 two properties that we think --

8           THE COURT: And who owns the New Jersey  
9 property?

10           MR. SOSINSKY: Mr. Lanni owns the New Jersey  
11 property.

12           THE COURT: And there's no mortgage on any of  
13 these?

14           MR. SOSINSKY: Correct. No, excuse me. There  
15 is on the Brooklyn home. There's a mortgage of about  
16 \$360,000, \$370,000. Okay? On the New Jersey property,  
17 there is none on that property.

18           THE COURT: Okay.

19           MR. SOSINSKY: In addition, Judge, so we would  
20 have his brother, Louis, who is here in court today; his  
21 mother, who is not well, but is here in court today; we  
22 would have them sign the bond, and we would take care of  
23 posting within a couple of days of liens in full against  
24 both properties.

25           And we would ask for two other financially

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1 responsible people that are -- I don't believe any are in  
2 court, we can have them here within a couple of hours.  
3 And if the Court was ready to issue an order, we could  
4 set a time tomorrow, when I know both could be here in  
5 the afternoon, maybe even in the morning. But I don't  
6 know of any reason why, if he's on electronic monitoring  
7 and on home incarceration or detention, that should pose  
8 an issue.

9 I know the Court, perhaps not your Honor, has  
10 released other defendants. I've given them a few days  
11 into the following week to get the last of the suretors  
12 to sign off on the bond. But the other suretors are  
13 working people. Joseph's brother, who is the owner of  
14 the home, is a working person. They made, in the past,  
15 significant, you know, income. All of them are perfectly  
16 qualified people to sign off on a bond.

17 And so, with the conditions that I began by  
18 speaking about, that are also in our memo, the same ones  
19 essentially that were imposed last week on Defendant  
20 Tantillo, the most restrictive ones, I think, you know,  
21 imaginable, that's what we're asking for.

22 THE COURT: Just to clarify something from the  
23 pretrial services report before I hear from the  
24 government, the report says that the defendant purchased  
25 property located at 7 Upton Street, Staten Island, and

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1 that that property has a lien of 1.6 million.

2 And then there are two other properties  
3 identified by pretrial, Bay Stream Drive and  
4 (indiscernible) Drive in Toms River. But those,  
5 according to the report, are from a trust. So I'm a  
6 little confused as to the properties that you are  
7 attempting --

8 MR. SOSINSKY: Yes. So, not the Staten Island  
9 property, not -- I don't think I mentioned that. And the  
10 Toms River property that I've been talking about is the  
11 Bay Stream Drive property. Mr. Lanni, I believe,  
12 revealed that, revealed, you know, his ownership in  
13 whatever form to pretrial services there. I've spoken  
14 with the --

15 THE COURT: But if it's in a trust, then I'm  
16 wondering if it can be posted as --

17 MR. SOSINSKY: I know that it can. I've been  
18 in touch with the real estate attorney who will take care  
19 of this and provide the government, the Court, with proof  
20 that the lien has been filed against it.

21 Obviously, if that doesn't go on and it doesn't  
22 go on in the time frame that your Honor would order, and  
23 I have no doubt that it could be done, you know, we would  
24 come back before the Court --

25 THE COURT: Yeah. Well, my concern is not

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1 whether a lien can be posted against it, but in terms of  
2 a trust, I kind of need to know who's the beneficiary of  
3 the trust, who's the trustee. Does Mr. Lanni have the  
4 authority to post this property on his own behalf?  
5 That's, I guess, my question.

6 MR. SOSINSKY: Sure. With regard to the  
7 Brooklyn property, I think that's not an issue.

8 THE COURT: No, no, no. I'm talking about the  
9 Bay Stream property.

10 MR. SOSINSKY: Yes.

11 THE COURT: The other property, my  
12 understanding is, he doesn't have any relationship to.  
13 It's his mother and his brother.

14 MR. SOSINSKY: Well, he used to live there, but  
15 yes. Yes --

16 THE COURT: But I mean upon the deed, legally  
17 speaking.

18 MR. SOSINSKY: Yes. 100 percent, Judge. As to  
19 the Bay Stream property, again, I don't claim to be a  
20 real estate expert, but I have spoken with someone who  
21 does that for a living and told me that Mr. Lanni would  
22 have to sign as the trustee on that property. And I  
23 forget whether or not the beneficiaries of the trust  
24 would also have to sign. However it is, and I think it's  
25 just the former, that's what would be done.

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1 THE COURT: Well, having been a trustee of  
2 property for my mother-in-law --

3 MR. SOSINSKY: Yes.

4 THE COURT: -- I did not have the ability to  
5 transfer that property or post it -- put a lien on it,  
6 you know, because it was for her benefit. So that's why  
7 I'm making the (indiscernible) here. But I think before  
8 I can accept that, I would need for you to present the  
9 trust documents and let's figure out exactly who would be  
10 responsible and authorized to post this property.

11 MR. SOSINSKY: I will -- I may be able to do  
12 one better. I will have the real estate attorney who  
13 created the trust here in court to answer all queries  
14 before whatever documents are required properly are  
15 prepared.

16 THE COURT: Okay.

17 MR. SOSINSKY: I know I can do that.

18 THE COURT: All right. Fine.

19 (Court and clerk confer)

20 THE COURT: So let me hear from the government.

21 MR. GALEOTTI: Yes, your Honor. First, for the  
22 record, we would just note that this -- the government is  
23 requesting this hearing pursuant to 18 United States Code  
24 3142(f)(1)(A), because the defendant committed a crime of  
25 violence, and pursuant to 18 United States Code

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1 3142(f)(2)(b), given the risk of flight, and the threat  
2 that the defendant will obstruct justice or tamper with  
3 witnesses.

4 For reasons we're about to describe, your  
5 Honor, the government maintains the position that  
6 detention is appropriate pursuant to 18 United States  
7 Code 3142(g), and that the order of detention put in  
8 place by Judge Reyes should remain in place.

9 Your Honor, let me just start, first of all,  
10 there appears to be a bit of a misconception on the law  
11 here. The defendant is charged with RICO conspiracy, a  
12 Glecier-style RICO conspiracy. He agreed to participate  
13 in a pattern of racketeering that includes violent  
14 objects. Not only did he agree to participate in such  
15 pattern, he himself engaged in such pattern when he  
16 committed the assault in Toms River using both the power  
17 and prestige of the enterprise.

18 So, certainly, the assault in Toms River has  
19 something to do with this case. We would submit evidence  
20 at trial that the defendant referenced multiple times his  
21 association with the Gambino crime family, as well as  
22 using one of his underlings in the Gambino crime family  
23 to commit an assault that happened in Toms River.

24 I should say, irrespective of whether --

25 THE COURT: All right. Which -- this is at the

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1 restaurant?

2 MR. GALEOTTI: At the restaurant, your Honor.

3 THE COURT: He actually assaulted a person?

4 MR. GALEOTTI: Your Honor, the evidence --  
5 that's why he's charged in New Jersey. The evidence  
6 suggests that he was -- him and co-defendant in this  
7 case, Vincent Minsquero, assaulted both the -- both  
8 patrons of the bar. That's what they're charged with.

9 There was an assault of these two patrons after  
10 the episode that you just heard about. The two bar  
11 owners were assaulted at knifepoint by two men who were  
12 initially identified as Mr. Lanni and the co-defendant,  
13 Vincent Minsquero.

14 Your Honor, to speak to the obstruction, we'd  
15 say that at first the victims reported this and reported  
16 that Mr. Lanni was one of the attackers. They then  
17 conducted due diligence where they were contacted by  
18 another member of the Gambino crime family and  
19 subsequently dropped the charges.

20 So the incident in New Jersey, which happened  
21 just months ago, speaks not only to the violence of this  
22 individual but also for the ability of him to obstruct  
23 and tamper with witnesses, as he's already done, and to  
24 do so again in this case. Relatedly --

25 THE COURT: See, I'm looking at your memo, the



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1 government's memo.

2 MR. GALEOTTI: Yes, your Honor.

3 THE COURT: And beginning on page 9, I think  
4 describes this incident at the restaurant there.

5 MR. GALEOTTI: Correct.

6 THE COURT: That's what we're talking about.  
7 And the report says there was an argument. Mr. Minsquero  
8 punched the wall. Mr. Lanni threatened the owners,  
9 saying he would burn this place down with you in it, and  
10 I think -- simply quoting -- I'm not making findings that  
11 any of this happened, but this is what you represented --  
12 (indiscernible) discussion of (indiscernible) gas  
13 container and all of that. But I don't see anything here  
14 being said --

15 MR. GALEOTTI: We received additional evidence  
16 since that time, your Honor, including body cam evidence  
17 and toll records to support the proffer that we're making  
18 to your Honor. The victims reported that they were  
19 assaulted at knifepoint. There's no dispute about that.  
20 That's part of the case. And the defendant --

21 THE COURT: And there was a positive  
22 identification of Mr. Lanni?

23 MR. GALEOTTI: I did not say there was a  
24 positive identification of Mr. Lanni. I said the victims  
25 initially reported that it was Mr. Lanni. Two

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1 individuals came back immediately after the incident  
2 that's pictured and -- assaulted. And that night or  
3 immediately thereafter, they identified Mr. Lanni.

4           They then dropped that identification  
5 afterwards, after learning that Mr. Lanni was a member of  
6 the Gambino crime family. So we're saying that evidence  
7 suggests and they've been charged with it, your Honor.  
8 Certainly what we're saying is that they were then  
9 subsequently contacted by a member of the Gambino crime  
10 family, and then dropped the charges thereafter.

11           THE COURT: So, even assuming that's true,  
12 though, there's no proffer at this point in time that it  
13 was Mr. Lanni who made the phone call threatening it,  
14 correct?

15           MR. GALEOTTI: Threatening the witnesses to  
16 drop the charges?

17           THE COURT: Yes.

18           MR. GALEOTTI: No, we're not suggesting that,  
19 your Honor. But we are saying that it's consistent with  
20 the case law that says that members, particularly  
21 high-ranking members of organized crime, have the ability  
22 and power to do these things; and in fact, it played  
23 itself out in this situation.

24           What I can tell you is that the defendant also  
25 called the victims that night 37 times, begging --

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1 telling them to beg for forgiveness or to see what would  
2 happen, threatening violence, your Honor.

3           So they had reason to go -- to believe when  
4 another member of the Gambino crime family, when they  
5 spoke with him, to believe that Mr. Lanni, in fact, had  
6 the power and the capability to make them beg for  
7 forgiveness. He told them himself that they should.

8           THE COURT: But let me go back just to the  
9 defense counsel's original argument, which is that the  
10 charge -- and he's only, based on your letter, charged  
11 with one count, correct? That is the racketeering  
12 conspiracy.

13           MR. GALEOTTI: Yes, your Honor.

14           THE COURT: And there's no indication, at least  
15 in your memo, that he's charged with any specific acts of  
16 violence in connection with the charge that's in the  
17 indictment, correct?

18           MR. GALEOTTI: Yes, your Honor, but in a  
19 Glecier RICO conspiracy, you prove up the specific  
20 incidents that are part of the pattern of the  
21 racketeering enterprise, which include violent  
22 extortions, arsons, assaults. So this would be --

23           THE COURT: But what is the evidence that  
24 Mr. Lanni himself engaged in these specific acts that  
25 form a pattern?

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1 MR. GALEOTTI: Well, one is the Toms River  
2 incident that we were just describing.

3 THE COURT: Well, but that's kind of -- are you  
4 suggesting that that incident in the restaurant was part  
5 of the extortion?

6 MR. GALEOTTI: No, your Honor. Two separate  
7 things.

8 THE COURT: So these guys were just out for  
9 dinner. It has nothing to do with other criminal  
10 activities charged in your indictment. And they get into  
11 a dispute. Is that -- I mean, I understand what you're  
12 saying, which is they said we're Gambino members,  
13 therefore, you should be afraid we'll do bad things to  
14 you. But it's not really (indiscernible) to or connected  
15 to other crimes charged in the indictment?

16 MR. GALEOTTI: The case law is 100 percent  
17 clear, your Honor, that when you're utilizing the power  
18 and resources of the enterprise, that is permissible  
19 racketeering evidence that comes in to show that you  
20 acted in furtherance of the conspiracy. This is one of  
21 the incidents. It's a predicate act that would be part  
22 of the conspiracy. The commission of these assaults, the  
23 attempted arson --

24 THE COURT: It's not, though, currently.

25 MR. GALEOTTI: It is, your Honor. It's just a

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1 form of charging --

2 THE COURT: It's in the indictment?

3 MR. GALEOTTI: The pattern -- not every  
4 incident that you would prove up as part of the  
5 racketeering conspiracy --

6 THE COURT: But this one isn't.

7 MR. GALEOTTI: Your Honor, none of them are.

8 THE COURT: Okay.

9 MR. GALEOTTI: There's no specific predicate  
10 listed because it's a racketeering conspiracy charge.

11 THE COURT: Right. But you've got a lot of  
12 different charges in the indictment relating to the other  
13 defendants.

14 MR. GALEOTTI: Sure.

15 THE COURT: I guess my concern is Judge Block  
16 was already asking to explain why this defendant should  
17 be treated differently from the other defendants that  
18 were released. And by my review of the report, they are  
19 charged with more specific criminal activity, including  
20 crimes of violence.

21 So, I guess, anticipating that if I were to  
22 detain him, you'd get the same questions from Judge Block  
23 as you got with respect to the other defendants. How do  
24 you respond to that?

25 MR. GALEOTTI: Well, whether he's charged in

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1 other stand-alone counts does nothing to take away from  
2 the crimes that he did as part of the racketeering  
3 conspiracy, for one thing.

4 THE COURT: But presumably these other  
5 defendants were also charged with the racketeering  
6 conspiracy plus, and Judge Block didn't find that  
7 sufficient to order them detained. So, again, I hear  
8 what you're saying about the conspiracy, but how are you  
9 going to respond outstanding Judge Block if this goes up  
10 on appeal?

11 MR. GALEOTTI: Let's talk about how he's  
12 distinguishable from the other people.

13 THE COURT: Okay.

14 MR. GALEOTTI: So, first of all, even if the  
15 Toms River incident had nothing to do with this  
16 conspiracy, it's a recent act of violence, which we would  
17 consider in any bail appearance before your Honor on any  
18 type of case. Even if it had nothing to do with RICO or  
19 nothing to do with the enterprise. The fact is, he's a  
20 violent individual that engaged in violence recently. So  
21 that matters.

22 Number two, it's the obstruction element of it  
23 that is particularly important here. It's consistent  
24 with what happened at the second time at the Sei Less  
25 Restaurant, where this individual, who is a captain, who

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1 generally doesn't have to get his hands dirty, has -- is  
2 sitting there while his two associates, underlings,  
3 assault another rat, quote unquote "rat," who previously  
4 cooperated against the Gambino crime family.

5 THE COURT: Were those two individuals  
6 detained?

7 MR. GALEOTTI: One is in custody right now,  
8 your Honor, and one is not detained. And I should say  
9 that the one who is in custody is on his way from the  
10 Eastern District of Pennsylvania here, who is detained on  
11 other charges.

12 So the other way to distinguish it, your Honor,  
13 is Mr. Lanni is a captain in the family. He has power,  
14 he has authority to direct people to do things. And just  
15 because someone doesn't swing a hammer themselves, or  
16 doesn't assault someone themselves, it makes them no less  
17 culpable if they've ordered it, if they've allowed it, if  
18 they've benefitted financially from it.

19 THE COURT: I fully understand that. I  
20 authored the opinion of the *United States v. Peter Gotti*  
21 many, many, many, many years ago, probably before you  
22 were even born. So I'm fully aware of that. But  
23 obviously that is not -- or has not been persuasive so  
24 far to Judge Brock.

25 So, again, explain to me why in this case I

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1 should, knowing where the Judge stands on this, order  
2 detention.

3 MR. GALEOTTI: Well, your Honor, I guess I  
4 would submit that respectfully your Honor is making the  
5 decision in the first instance, the same way Judge Reyes  
6 is, and frankly deals with bail hearings every, you know,  
7 every month in this court. And putting aside whether  
8 Judge Block's prior opinion, because we do think this is  
9 distinguishable, but I don't think that it's necessarily  
10 the right way to go about it to read the tea leaves of  
11 Judge Block's --

12 THE COURT: I'm not attempting to read the tea  
13 leaves, but I do take seriously the fact that he expects  
14 you to be able to distinguish. And so far, I have not  
15 heard why this defendant should be distinguished from the  
16 others that he released where there were specific  
17 allegations of violent activity.

18 MR. GALEOTTI: But we have that from September  
19 with this individual. We have two instances of  
20 obstruction, which we did not necessarily have with the  
21 other individuals.

22 In addition, we have the fact that this  
23 defendant has significant resources, more so than the  
24 other individuals in this case. We've outlined at least  
25 \$1.6 million of fraud proceeds that went to Mr. Lanni.



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1 And I would note, if we get to it, that one of the  
2 properties that is suggested being posted, the one that's  
3 part of the trust, appears to have been partially  
4 purchased with proceeds -- crime proceeds funneled to Mr.  
5 Lanni by co-defendant Jimmy Laforte. So that's another  
6 issue with that property.

7 But let me stick with your Honor's question.  
8 Your honor, it's the recent acts of violence. It's the  
9 power that this defendant has. It's the resources that  
10 this defendant has, and it's the fact that he's been  
11 engaged in other attempts of obstruction and witness  
12 tampering that make him different than the other  
13 individuals.

14 MR. SOSINSKY: Can I respond?

15 THE COURT: Yes, of course.

16 MR. SOSINSKY: Briefly. I know you have many  
17 other cases to attend to, Judge. The other defendants in  
18 this case, each and every one of them, are charged in  
19 other substantive counts with acts of violence. He's  
20 not.

21 This notion that whatever happened down in Toms  
22 River on Labor Day weekend, an afternoon when he's in a  
23 bar and establishment having dinner and having drinks,  
24 has anything to do with that compared to evidence that  
25 they presented to a federal grand jury that resulted in

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1 charging people with acts of violence, acts of witness  
2 intimidation, going after people. Judge, those people  
3 were all released. Those people got released, and  
4 they're indicted for doing the very thing somehow that  
5 he's trying to equate with that, Judge. Those people  
6 were no witnesses against the Gambino crime family.

7 And by the way, Judge, by the way, it was  
8 either last week before Judge Block or the week before,  
9 before Judge Reyes, what the government said took place  
10 after the incident in which him and his friend are asked  
11 to leave, and the police are there and they take their  
12 ID, is that the owners of the establishment reached out.  
13 This is what they represented to a court.

14 It's in one of the transcripts. I just forget  
15 if it was Judge Block or Judge Reyes. That the owner of  
16 the establishment reached out to see who these guys were,  
17 not this business of somebody reaching out to them and  
18 saying, you know these guys are Gambinos, following which  
19 they dropped charges.

20 And by the way, no one has dropped any charges.  
21 Okay? There was a court date on Monday where local  
22 counsel went to court on his behalf, and the case got  
23 adjourned so that, hopefully upon his release, he'll be  
24 in attendance with Court permission to attend to that.  
25 So no case was dropped.

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1 But what the government learned in between  
2 their first assertions and now, was we understand they  
3 met with these people and they told them they can't  
4 identify Joseph Lanni as being the person who did it.  
5 The government well knows, well knows, that the people  
6 who they interviewed at their office did not say it was  
7 Joseph Lanni who ever assaulted them, or the other  
8 gentleman for that matter. Okay? They know --

9 THE COURT: Well, wait.

10 MR. SOSINSKY: -- that because they've met with  
11 them.

12 THE COURT: I'm just going to cut through all  
13 of this and I'm going to say, look, I think bail is  
14 appropriate here. I'm not going to order detention.  
15 However, given the government's representation that  
16 Mr. Lanni has more significant assets than some of the  
17 other members of this group, and my concern, which I  
18 raised even before we heard from the government, that I'm  
19 not sure this trust -- and now we have another issue with  
20 the trust, which is perhaps we need a (indiscernible)  
21 hearing before we take it as collateral.

22 I think the package that you submitted today is  
23 insufficient. So I'm not going to order him permanently  
24 detained. I'm not making that finding that he is a risk  
25 of flight. But I am saying today the package is not

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1 enough, given all of the circumstances that the  
2 government has raised. And I would urge you to go out  
3 there and come back with something, you know, that deals  
4 with the issues that we've talked about today.

5 MR. SOSINSKY: I'll certainly do that, but  
6 Your Honor, because we've been doing our best as quickly  
7 as we can to see if there was anything else out there.  
8 Your Honor, we know, and I think it's indisputable, that  
9 the Brooklyn property alone is worth \$2 million. Okay?  
10 We know that. I can provide the assessment from two days  
11 ago and the mortgage statement. So if your Honor --

12 THE COURT: No. I would not. I need two  
13 pieces of property that are free and clear of any  
14 concerns.

15 MR. SOSINSKY: But what I'm asking, I think the  
16 Brooklyn property is free of any concerns.

17 THE COURT: Right. But --

18 MR. SOSINSKY: I just want to be focused. No,  
19 I understand. Okay. But that does have a mortgage.  
20 There's nothing wrong with that as long as the equity in  
21 it is --

22 THE COURT: No, no, no. I'm saying I don't  
23 care about the mortgage.

24 MR. SOSINSKY: Okay. Yes.

25 THE COURT: What I care about is the legal

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1 ability to post a trust, a property that's held in trust.  
2 And the government's -- I mean, you know, it's up to the  
3 government to raise the issue of where the money came  
4 from. But that was also a concern. A property that is  
5 not encumbered in any way whatsoever would be --

6 MR. SOSINSKY: Ideal.

7 THE COURT: -- ideal.

8 MR. SOSINSKY: But, Judge, if I come back to  
9 you with another property, but -- and it's a friend or  
10 family member, and the equity in it is \$500,000 or  
11 \$600,000, I just want to know how we should be spending  
12 our time. Is approximately \$2.5 versus \$3 million in a  
13 case like this, if there are no concerns with that  
14 property, going to satisfy the Court, that that's okay?

15 THE COURT: You know, I hesitate to set a  
16 specific number.

17 MR. SOSINSKY: Okay.

18 THE COURT: Because you may not be able to  
19 reach it, and that might not be a fair thing to do.

20 MR. SOSINSKY: What about the suretors, Judge?  
21 Are the four -- the owners of that property, is his  
22 85-year-old mother?

23 THE COURT: I haven't heard anything from the  
24 government to suggest that any of the suretors --

25 MR. SOSINSKY: Okay.

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1 MR. GALEOTTI: We haven't raised that on the  
2 information we've received.

3 THE COURT: Okay. All right. So the suretors  
4 are fine.

5 MR. SOSINSKY: Thank you.

6 THE COURT: Okay? So come back.

7 MR. SOSINSKY: We will.

8 THE COURT: It may not be before me, you know?

9 MR. SOSINSKY: Well, hopefully it will be.

10 THE COURT: All right. Thank you.

11 MR. GALEOTTI: Thank you, your Honor.

12 MR. SOSINSKY: Thank you, your Honor.

13 (Matter concluded)

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C E R T I F I C A T E

I, MICHELLE COSTANTINO, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound-recording of the proceedings reduced to typewriting in the above-entitled matter.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I hereunto set my hand this 4th day of December, 2023.

*Michelle Costantino*

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